> Anthony Tompson of New Haven, being sick at Milford, declared his will touching his outward estate upon the six and twenty day of Decembr, in the yeare one Thousand six hundred and fifty-foure, as follows, vs. first, he gave all his Lands unto his Brother, John Tompson: also he gives a cow to his Eldest Sister, his father's daughter by his own Mother; also he gave unto his Three sisters, the daughters of his father by his Mother-in-law Goodwife Camp Twenty shillings a piece, and to his Mother-in-Law herselfe forty shillings. The rest of his estate, in what goods or chattells so-ever it be, he gave them unto his Brother John Tompson, appointing him to be executor.
>
> Witness of this being declared in the presence of ye Executor, John Prudden. Afterwards he gave to two poore widdows sisters of the church of Newhaven, To wit: widow Holbert and widow Wilmot, ten shillings a piece.
>
> Witness to this is his Mother-in-law."

This will shows that oral wills were used to pass real estate.

Harrison Hewitt.

CHROMO-LITHOGRAPH CIRCUS POSTERS AS SUBJECTS OF COPYRIGHT.

The Supreme Court of the United States has just passed upon the question whether chromo-lithographs are within the protection of the copyright law. The Circuit Court of Appeals had decided (44 C. C. A. 296) that they were not within the protection of the law, and this decision upon appeal was reversed.

Incidentally the opinion in the case was the first written by Mr. Justice Holmes since his elevation to the Supreme bench and has elicited no little light comment because of his citing Ruskin and discussing art, thus evincing the literary and cultured instincts of his illustrious father. However, the case is noteworthy in that it carries forward considerably certain principles of the copyright law.

It has been thought well settled that advertisements possessing little or no literary or artistic qualities are not properly subject to copyright. *Collander v. Griffeth,* 11 Blatch. (U. S.) 212; *Ehret v. Pierce,* 10 Fed. 553. In the case of *Yuenling v. Schile,* 12 Fed. 97, however, it was held that a chromo-lithographic picture used as an advertisement was properly a subject of copyright because possessing evident artistic merit. The Supreme Court in the case before us *(Bleistein v. Donaldson Lithographing Co.,* 23 Sup. Ct. 298), insists that originality is the test, and points out that "The least pretentious picture has more originality in it than directories and the like which may be copyrighted." To quote further: "A picture is none the less a picture and none the less a subject of copyright that it is used for an advertisement. And if pictures may be used to advertise soap or the theatre, or monthly magazines, as they are, they may be used to advertise a circus." Also, "It would be a

dangerous undertaking for persons trained only in the law to constitute themselves final judges of the worth of pictorial illustrations, outside of the narrowest and most obvious limits. At the one extreme some works of genius would be sure to miss appreciation. Their very novelty would make them repulsive until the public had learned the new language in which their author spoke. * * * At the other end, copyright would be denied to pictures which appealed to a public less educated than the judge. Yet if they command the interest of any public, they have a commercial value,—it would be bold to say that they have not an æsthetic and educational value,—and the taste of any public is not to be treated with contempt."

From this view, the effect of which, it would seem, will be to greatly increase the number of copyrights and proportionately stimulate the activity of the office of the Librarian of Congress, Justices Harlan and McKenna emphatically dissented, concurring with the Circuit Court of Appeals in the following language: "If a chromo, lithograph or other print, engraving or picture has no other use than that of a mere advertisement * * * it would not be promotive of the useful arts * * * and the copyright statute should not be construed to include such publication."

Should the theory of this decision be followed out to reasonable lengths it is easily seen how it might impinge upon the territory of trade-marks. On general view, it may well be questioned whether the constitutional provision "granting for limited times to authors the exclusive rights to their writings" has not been stretched in several directions to points from which the courts will ultimately withdraw.

JURISDICTION IN DIVORCE PROCEEDINGS.

Owing to the fact that the States have the sole power to regulate the domestic relations of its citizens, the subject of divorce has reached the United States Supreme Court only when there has been involved some constitutional question. This question has generally been the meaning and application of the "full faith and credit" clause, and it is held that that clause does not apply to the matter of jurisdiction. The jurisdiction of a court in one State may be inquired into in a collateral proceeding in another State. *Thompson v. Whitman,* 18 Wall. 457; *Wisconsin v. Pelican Ins. Co.,* 127 U. S. 265.

In this country it has been held universally that the true test of jurisdiction in divorce proceedings is domicil. *Smith v. Smith,* 13 Gray 209; *People v. Dowell,* 25 Mich. 247; *Hoffman v. Hoffman,* 40 N. Y. 30. It follows, then, that where neither party has a bona fide domicil within the State where the decree of divorce is granted, and where service is made by publication only, upon the defendant in another State, such decree is entitled to no faith and credit in that other State. *Sewall v. Sewall,* 122 Mass. 156; *Litowitch v.*